

REMARKS

The application has been amended to place the application in condition for allowance at the time of the next Official Action.

Claims 1-27, 49 and 50 are pending in the application.

Claims 1-16, 19-21, 49 and 50 were rejected under 103(a) as being unpatentable over SCHOELER 5,862,652 in view of FUKUDA 5,279,098. That rejection is respectfully traversed.

Claim 1 is amended and recites a form shoulder being asymmetrically shaped and having a sideward opening to form a flap in the packaging formed by the form-fill machine, said flap being formed from an overlap in the foil tube, which extends from a rear side of the packaging over an upper side of the packaging to a front side of the packaging. Support for this limitation may be found on page 14, line 29 to page 15, line 7.

The Official Action offers Figures 8-12 and elements 40, 41 of SCHOELER as disclosing an asymmetrical shoulder forming an overlap in the foil tube.

However, SCHOELER neither discloses that for which it is offered nor that which is recited.

Elements 40, 41 of SCHOELER form side folds 110, 111 as shown in Figure 7 of SCHOELER, reproduced below.

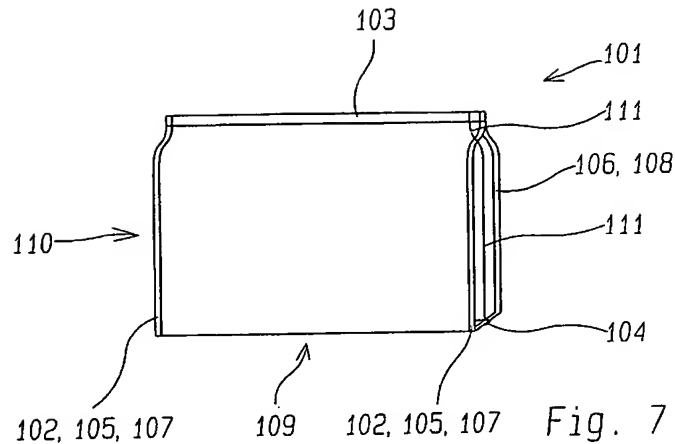


Fig. 7

SCHOELER does not disclose an overlap in the foil tube, which extends from a rear side of the packaging over an upper side of the packaging to a front side of the packaging as recited.

Rather, SCHOELER discloses that the side edges are sealed together.

Moreover, elements 40, 41 of SCHOELER are disclosed on column 7, lines 39-42 as a folding wire 40 and a side-fold producer 41. See Figure 8 of SCHOELER reproduced below. As set forth above, elements 40, 41 of SCHOELER form sealed side edges.

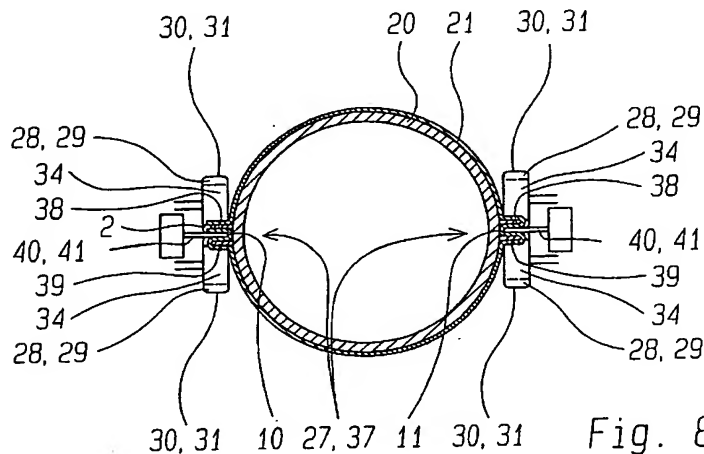


Fig. 8

SCHOELER does not disclose a form shoulder being asymmetrically shaped and having a sideward opening to form a flap in the packaging formed by the form-fill machine. Compare for example, the sideward opening 95 in Figure 2A of the present invention and the flap 53 in the resultant bag 50 of Figure 3C.

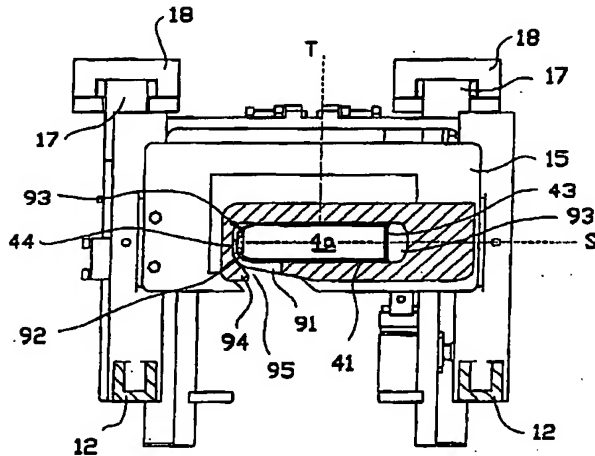


FIG. 2A

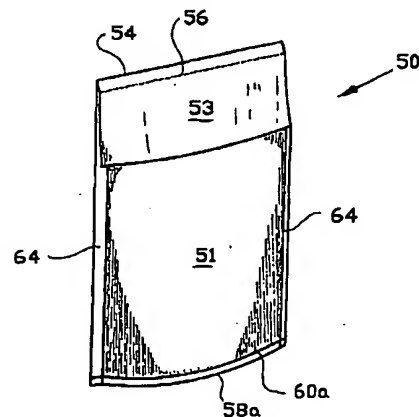
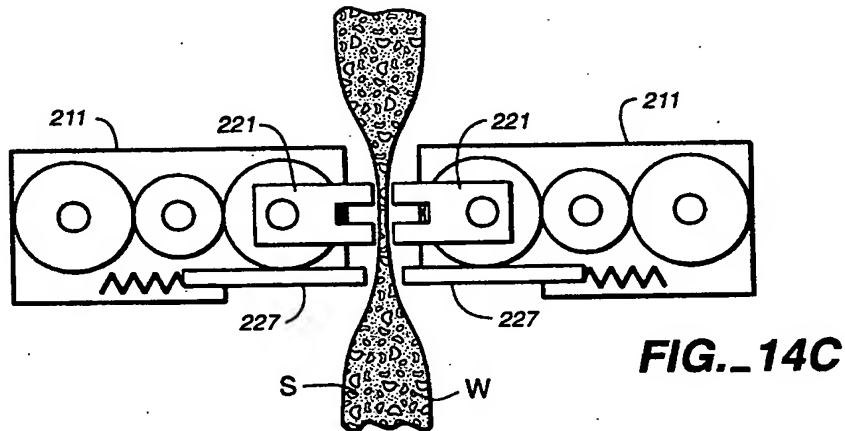


FIG. 3C

SCHOELER discloses neither a bag having a flap formed using the recited device nor the recited structure needed to obtain the flap.

FUKUDA discloses a substantially symmetrical form shoulder that forms a tube shaped bag. The resultant bag of FUKUDA is sealed at the top. FUKUDA neither discloses an overlap in the foil tube, which extends from a rear side of the packaging over an upper side of the packaging to a front side of the packaging, nor a flap. See Figure 14C of FUKUDA, reproduced below.



In any event, FUKUDA does not overcome the shortcomings of SCHOELER set forth above with respect to the recited structure including the asymmetrical form shoulder having a sideward opening that is used to obtain the flap.

As the combination of references discloses neither a bag having the recited flap, nor the recited structure needed to obtain the flap, claim 1 would not have been obvious in view of SCHOELER and FUKUDA.

Claim 19 is amended and includes similar limitations. The analysis above regarding claim 1 is equally applicable to claim 19.

Claims 22-27 were rejected under 103 (a) as unpatentable over SCHOELER in view of INAGAKI EP 0 276 554. That rejection is respectfully traversed.

Claim 22 is amended and recites an asymmetrical form shoulder having a sideward opening that transforms the flat web

of foil material into a foil tube, while forming an overlap that functions as a flap.

As set forth above with respect to claim 1, SCHOELER does not disclose an asymmetrical form shoulder having an opening that forms a flap in the resultant bag. INAGAKI does not overcome the shortcomings of SCHOELER as to this feature.

Rather, INAGAKI discloses a symmetrical form shoulder. In addition, in INAGAKI any overlap is formed by a separate closing means 2 and is not formed by overlapping the foil tube 1'.

Based on the foregoing, the combination of SCHOELER in view of INAGAKI would not have been sufficient to render claims 22-27 *prima facie* obvious.

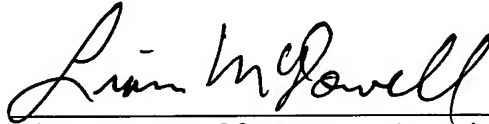
In view of the present amendment and the foregoing remarks, it is believed that the present application is in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in cursive script, reading "Liam McDowell", written in black ink.

Liam McDowell, Reg. No. 44,231
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

LM/fb